

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ODILON MELENDEZ,
DINORAH MELENDEZ,
WENSY MELENDEZ,
CITY OF MADISON WISCONSIN,
DANE COUNTY WISCONSIN, and
WISCONSIN DEPARTMENT OF
WORKFORCE DEVELOPMENT

Case No. 18-cv-84

Defendants.

COMPLAINT

Plaintiff United States, for its complaint against defendants, alleges as follows:

1. This is a civil action in which the United States seeks to: (1) reduce to judgment certain federal income tax, interest, and penalty assessments made against Odilon Melendez and Dinorah Melendez; (2) reduce to judgment assessments made against Odilon Melendez for employment tax liabilities and unemployment tax liabilities; (3) enforce federal tax liens against the real property described herein and located in Dane County Wisconsin; (4) obtain an order directing the sale of the subject property; and (5) have the proceeds from the sale distributed in amounts and priority determined by the Court.
2. This action is commenced at the request and with the authorization of a delegate of the Secretary of the Treasury and at the discretion of the Attorney General of the United States pursuant to 26 U.S.C. §§ 7401 and 7403.

Jurisdiction and Venue

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1340 and 1345, and 26 U.S.C. §§ 7402 and 7403.
4. Venue is proper in the Western District of Wisconsin pursuant to 28 U.S.C. §§ 1391 and 1396 because it is where Odilon Melendez and Dinorah Melendez reside and where the subject property is located.

The Parties to This Action

5. Plaintiff is the United States of America.
6. Defendant Odilon Melendez resides in Dane County, Wisconsin, which is within this judicial district. Melendez is named as defendant in Counts I, III, IV, and V of this complaint.
7. Defendant Dinorah Melendez resides in Dane County, Wisconsin, which is in this judicial district. She is named as a defendant to Counts II, IV, and V and, pursuant to 26 U.S.C. § 7403(b), may claim an interest in the real property at issue.
8. Wensy Melendez resides in Dane County, Wisconsin, which is within this judicial district. He is named as defendant to Count V pursuant to 26 U.S.C. § 7403(b) because he may claim an interest in the real property at issue.
9. The City of Madison is a city in the state of Wisconsin and within the jurisdiction of this Court. It is named as defendant to Counts IV and V pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the real property at issue.
10. Dane County is a county in the state of Wisconsin and within the jurisdiction of this Court. It is named as defendant to Counts IV and V pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the real property at issue.

11. Wisconsin Department of Workforce Development is located at 201 E. Washington Avenue, Madison, Wisconsin 53708. It is named as defendant to Counts IV and V pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the real property at issue.

Tax Liabilities at Issue

12. Odilon and Dinorah Melendez are a married couple who reside in Dane County, Wisconsin in the city of Madison, Wisconsin.
13. Since at least 2006, Odilon and Dinorah Melendez have filed joint federal income tax returns (Form 1040).
14. For tax years 2006, 2007, 2008, 2012, 2013, 2014, and 2015, Odilon and Dinorah Melendez jointly filed federal income tax returns, but did not pay the taxes they reported they owed.
15. Upon information and belief, since at least 2005, Odilon Melendez has owned and operated Amigo Painting as a sole proprietor.
16. Melendez has outstanding federal tax liabilities related to his business, Amigo Painting.
17. For periods in 2005 through 2008, Odilon Melendez, as sole proprietor for Amigo Painting, failed to pay its employment taxes in full.
18. For the period ending on December 31, 2006, Odilon Melendez, as sole proprietor for Amigo Painting, failed to pay its unemployment taxes in full.

**COUNT I: REDUCE INCOME TAX ASSESSMENTS TO JUDGMENT AGAINST
ODILON MELENDEZ**

19. The United States incorporates by reference all allegations in paragraphs 1-6 and 12-14 above as if set forth here.

20. Odilon Melendez filed income tax returns for tax years 2006, 2007, 2008, 2012, 2013, 2014, and 2015, but did not pay the taxes he reported he owed.
21. On the dates and in the amounts shown below, a delegate of the Secretary of the Treasury made assessments against Odilon Melendez for income tax, interest, and penalties as follows:

Table 1: Federal Income Tax Liabilities (Form 1040)

Tax Year	Date Assessed	Tax Assessed	Interest Assessed	Penalties Assessed	Total as of 1/31/2018
2006	9/27/2010	21,469.00	4,703.01	9,124.31	46,349.23
2007	7/5/2010	23,244.00	2,930.49	8,367.84	37,474.94
2008	8/31/2009	9,268.00	125.59	0	13,538.61
2012	11/18/2013	5,309.00	24.60	54.68	2,045.97
2013	6/9/2014	15,451.00	52.79	139.52	16,398.41
2014	12/21/2015	8,486.00	146.40	1049.74	10,248.17
2015	9/12/2016	9,341.00	74.27	183.35	5,826.92
Total Balance as of Jan. 31, 2018					\$131,882.25

22. Notices of the assessments, referred to in paragraph 21 and Table 1, and demands for payment were sent to Odilon Melendez on or about the dates on which the assessments were made. Despite the notices and demands for payment, Odilon Melendez failed to pay the outstanding federal income tax liabilities.
23. As a result, Odilon Melendez is indebted to the United States in the amount of \$131,882.25 (as of January 31, 2018) together with statutory additions accruing thereafter relating to the assessments made against him for tax years 2006, 2007, 2008, 2012, 2013, 2014, and 2015.

WHEREFORE, the United States requests that the Court enter judgment in its favor on Count I of the complaint as follows:

- (a) Enter a judgment in favor of the United States and against Odilon Melendez in the amount of \$131,882.25 (as of January 31, 2018) plus statutory additions that have accrued and will continue to accrue according to law thereon;
- (b) Grant the United States its costs incurred in the commencement and prosecution of this action, and such other and further relief as the Court deems proper and just.

**COUNT II: REDUCE INCOME TAX ASSESSMENTS TO JUDGMENT AGAINST
DINORAH MELENDEZ**

- 24. The United States incorporates by reference all allegations in paragraphs 1-5, 7, and 12-14 above as if set forth here.
- 25. Dinorah Melendez filed income tax returns for tax years 2006, 2007, 2008, 2012, 2013, 2014, and 2015, but did not pay the taxes she reported she owed.
- 26. On the dates and in the amounts shown in paragraph 21 and Table 1 above, a delegate of the Secretary of the Treasury made assessments against Dinorah Melendez for income tax, interest, and penalties.
- 27. Notices of the assessments, referred to in paragraphs 21, 26, and Table 1, and demands for payment were sent to Dinorah Melendez on or about the dates on which the assessments were made. Despite the notices and demands for payment, Dinorah Melendez failed to pay the outstanding federal income tax liabilities.
- 28. As a result, Dinorah Melendez is indebted to the United States in the amount of \$131,882.25 (as of January 31, 2018) together with statutory additions accruing thereafter relating to the assessments made against her for tax years 2006, 2007, 2008, 2012, 2013, 2014, and 2015.

WHEREFORE, the United States requests that the Court enter judgment in its favor on Count I of the complaint as follows:

- (a) Enter a judgment in favor of the United States and against Dinorah Melendez in the amount of \$131,882.25 (as of January 31, 2018) plus statutory additions that have accrued and will continue to accrue according to law thereon;
- (b) Grant the United States its costs incurred in the commencement and prosecution of this action, and such other and further relief as the Court deems proper and just.

**COUNT III: REDUCE EMPLOYMENT & UNEMPLOYMENT TAX ASSESSMENTS
TO JUDGMENT AGAINST ODILON MELENDEZ**

- 29. The United States incorporates by reference paragraphs 1-6 and 15-18 of this complaint.
- 30. Upon information and belief, as early as 2005, Odilon Melendez operated the business Amigo Painting as a sole proprietor.
- 31. Odilon Melendez, or his representative, filed Amigo Painting's Form 941 employment tax returns (reporting Social Security and Medicare taxes employers owe and are required to withhold from employee wages) and Form 940 unemployment returns (reporting federal unemployment taxes owed by the employer) with the IRS reporting taxes owed for the tax periods identified in paragraph 33 and Table 2 below.
- 32. For the periods described below in paragraph 33 and Table 2, Melendez failed to pay the taxes he reported on his returns for the tax periods identified below.
- 33. On the dates, for the tax periods, and in the amounts specified below, a delegate of the Secretary of the Treasury timely made assessments against Odilon Melendez for the following Form 941 employment taxes and Form 940 unemployment taxes that were

required to be paid based on the wages of employees of Amigo Painting, plus related statutory additions to tax:

Table 2: Form 940 & 941 Liabilities

Tax Period	Tax Type	Date Assessed	Tax Assessed	Interest Assessed	Penalty Assessed	Balance as of 1/31/18
200512	941	8/9/2011	3,370.97	1,311.07	1,938.31	8,731.08
200603	941	3/28/2011	2,475.66	986.34	1,175.93	5,830.06
200606	941	8/9/2010	3,032.25	1,008.36	1,728.38	7,633.05
200609	941	8/9/2010	1,559.00	469.96	709.34	3,560.42
200612	941	8/9/2010	5,118.72	1,387.11	2764.10	12,471.89
200703	941	3/28/2011	6,713.85	1,853.85	3,759.74	16,040.73
200706	941	3/28/2011	6,706.86	1,650.96	3,655.23	15,769.03
200709	941	4/4/2011	5,207.02	1,109.33	2,759.72	12,015.98
200712	941	3/28/2011	6,214.16	1,175.98	3,200.30	14,159.32
200806	941	6/8/2009	2,499.78	122.87	687.44	5,077.99
200612	940	8/2/2010	194.02	52.36	85.36	435.38
Total Balance as of Jan. 31, 2018:						\$101,724.90

34. Notices of the assessments, referred to in paragraph 33 and Table 2, and demands for payment, were sent to Odilon Melendez on or about the dates on which the assessments were made.
35. Despite the notices and demands for payment, Odilon Melendez has failed to pay the liabilities set forth in paragraph 33 and Table 2. Interest and statutory additions thereafter provided for by law have accrued on the assessed amounts and will continue to accrue until the liabilities are paid in full.
36. By reason of the foregoing, there remains due and owing from Odilon Melendez to the United States a total of \$101,724.90 (as of January 13, 2018) with interest and other statutory additions as allowed by law.

WHEREFORE, the United States requests that the Court:

- (a) Enter judgment in favor of United States and against the defendant, Odilon Melendez in the amount of \$101,724.90 (as of January 13, 2018) plus statutory additions that have accrued and will continue to accrue according to law thereon;
- (b) Grant the United States its costs incurred in the commencement and prosecution of this action, and such other further relief as the Court deems proper and just.

COUNT IV: ENFORCE FEDERAL TAX LIENS AGAINST LORUTH PROPERTY

- 37. The United States incorporates by reference all allegations in paragraphs 1-7 and 9-36 as if set forth here.
- 38. By Warranty Deed, recorded March 1, 2002 with the Dane County Register of Deeds (Document No. 3454316), Odilon and Dinorah Melendez acquired real property in Dane County.
- 39. The real property is located at 5153 Loruth Terrace, Madison, Wisconsin (hereinafter the “Loruth Property”) and is legally described as:
 - Lot Sixty-Nine (69), Fourth Addition of Orchard Ridge, in the City of Madison, Dane County, Wisconsin, Parcel # 251-0709-311-0309-1.
- 40. Upon information and belief, the Loruth Property is Odilon and Dinorah Melendez’s primary residence.
- 41. By reason of Odilon and Dinorah Melendez’s failure to pay the assessed liabilities described in Table 1 above and Odilon Melendez’s failure to pay the assessed liabilities described in Table 2 above, pursuant to 26 U.S.C. §§ 6321 and 6322, federal tax liens arose on the dates of the assessments against all property and rights to property of Odilon

and Dinorah Melendez. These federal tax liens also attached to any property or rights to property subsequently acquired by Odilon and Dinorah Melendez.

42. The IRS filed notice of the federal tax liens relating to the assessments described in Tables 1 & 2 above with the Dane County Register of Deeds as follows:

Table 3: Notices of Federal Tax Lien Filed Against Odilon & Dinorah Melendez

Tax Period	Tax Type	Date Notice Filed
2002	1040	4/14/11
2003	1040	4/14/11
2004	1040	4/14/11
2006	1040	4/14/11
2007	1040	4/14/11
2008	1040	4/14/11
2012	1040	12/29/14
2013	1040	12/29/14
2014	1040	1/25/16
2015	1040	10/18/16

Table 4: Notices of Federal Tax Lien Filed Against Odilon Melendez

Tax Period	Tax Type	Date Notice Filed
200612	940	4/14/11
200503	941	4/14/11
200506	941	4/14/11
200512	941	4/14/11
200606	941	4/14/11
200609	941	4/14/11
200612	941	4/14/11
200806	941	4/14/11
200603	941	8/31/16
200703	941	8/31/16
200706	941	8/31/16
200709	941	8/31/16
200712	941	8/31/16

43. Accordingly, the federal tax liens referred to in paragraph 42 and Tables 3 & 4 above may be enforced against the Loruth Property.

44. WHEREFORE, the United States requests that the Court enter judgment on Count IV of the complaint as follows:

- (a) Enter judgment in favor of the United States and declare that the United States has valid and subsisting federal tax liens upon all property and rights to property of Odilon and Dinorah Melendez, including the Loruth Property, as of the dates of the assessments against them;
- (b) Declare that the federal tax liens attached to the Loruth Property;
- (c) Order that the federal tax liens be enforced against the Loruth Property and that the Loruth Property be sold;
- (d) Order that any defendant claiming an interest in the proceeds from the sale of the Loruth Property affirmatively demonstrate that interest;
- (e) Order that the proceeds of the sale of the Loruth Property be paid to the United States, or that a portion of the proceeds be paid to the United States if there is a lien found to be superior to the United States' tax liens; and
- (f) Grant the United States its costs incurred in the commencement and prosecution of this action, and such other and further relief as the Court deems just and proper.

COUNT V: ENFORCE FEDERAL TAX LIENS AGAINST HUGHES PROPERTY

45. The United States incorporates by reference all allegations in paragraphs 1 to 36 as if set forth here.

46. By Warranty Deed, recorded June 25, 1997 with the Dane County Register of Deeds (Document No. 2865133), Odilon and Dinorah Melendez acquired real property in Dane County.
47. The real property is located at 844 Hughes Place, Madison, Wisconsin (hereinafter the “Hughes Property”) and is legally described as:

Lot 13, Miller Park Plat, in the Town of Madison, Dane County,
Wisconsin, Tax Parcel 251-0709-352-0405-1.
48. On information and belief, the Hughes Property is the primary residence of Wensy Melendez.
49. By reason of Odilon and Dinorah Melendez’s failure to pay the assessed liabilities described in Table 1 above and Odilon Melendez’s failure to pay the assessed liabilities described in Table 2 above, pursuant to 26 U.S.C. §§ 6321 and 6322, federal tax liens arose on the dates of the assessments against all property and rights to property of Odilon and Dinorah Melendez. These federal tax liens also attached to any property or rights to property subsequently acquired by Odilon and Dinorah Melendez.
50. The IRS filed notice of the federal tax liens relating to the assessments, as described in Tables 3 & 4 above.
51. Accordingly, the federal tax liens referred to in paragraphs 41-42 and Tables 3 & 4 above may be enforced against the Hughes Property.

WHEREFORE, the United States requests that the Court enter judgment on Count IV of the complaint as follows:

- (a) Grant judgment in favor of the United States and declare that the United States has valid and subsisting federal tax liens upon all property and rights to property of Odilon and Dinorah Melendez,

including the Hughes Property, as of the dates of the assessments against them;

- (b) Declare that the federal tax liens attached to the Hughes Property;
- (c) Order that the federal tax liens be enforced against the Hughes Property and that the Hughes Property be sold;
- (d) Order that any defendant claiming an interest in the proceeds from the sale of the Hughes Property affirmatively demonstrate that interest;
- (e) Order that the proceeds of the sale of the Hughes Property be paid to the United States, or that a portion of the proceeds be paid to the United States if there is a lien found to be superior to the United States' tax liens; and
- (f) Grant the United States its costs incurred in the commencement and prosecution of this action, and such other relief as the Court deems just and proper.

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Dated: February 7, 2018

Respectfully submitted,

SCOTT C. BLADER
United States Attorney

RICHARD ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ Gretchen Ellen Nygaard

GRETCHEN ELLEN NYGAARD
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS (b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorneys (Firm Name, Address, and Telephone Number) _____	DEFENDANTS County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known) _____
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width: 100%;"><tr><td style="width: 33%;"></td><td style="width: 10%; text-align: center;">PTF</td><td style="width: 10%; text-align: center;">DEF</td><td style="width: 33%;"></td><td style="width: 10%; text-align: center;">PTF</td><td style="width: 10%; text-align: center;">DEF</td></tr><tr><td>Citizen of This State</td><td style="text-align: center;"><input type="checkbox"/> 1</td><td style="text-align: center;"><input type="checkbox"/> 1</td><td>Incorporated or Principal Place of Business In This State</td><td style="text-align: center;"><input type="checkbox"/> 4</td><td style="text-align: center;"><input type="checkbox"/> 4</td></tr><tr><td>Citizen of Another State</td><td style="text-align: center;"><input type="checkbox"/> 2</td><td style="text-align: center;"><input type="checkbox"/> 2</td><td>Incorporated and Principal Place of Business In Another State</td><td style="text-align: center;"><input type="checkbox"/> 5</td><td style="text-align: center;"><input type="checkbox"/> 5</td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td style="text-align: center;"><input type="checkbox"/> 3</td><td style="text-align: center;"><input type="checkbox"/> 3</td><td>Foreign Nation</td><td style="text-align: center;"><input type="checkbox"/> 6</td><td style="text-align: center;"><input type="checkbox"/> 6</td></tr></table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)					
<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Brief description of cause:
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____ DOCKET NUMBER _____
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DATE _____	SIGNATURE OF ATTORNEY OF RECORD _____
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FOR OFFICE USE ONLY

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____	
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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff

v.

Defendant

)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff

v.

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff

v.

Defendant

)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

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 _____ on *(date)* _____; or

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 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: